

MONTANA LEGISLATIVE HISTORY

Chapter 343 19 94

Bill H 638 S _____ Original bill & history C

H. Committee on Human Services and Aging

Hearing Date(s) Feb 12 ☒ C

Feb 14 ☒ C

_____ ☐ C

_____ ☐ C

Date Out Feb 14 ☒ C

S. Committee on Public Health, Welfare & Safety

Hearing Date(s) Mar 13 ☒ C

Mar 20 ☒ C

_____ ☐ C

_____ ☐ C

Mar 20 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

HOUSE FINAL STATUS

3/06 COMMITTEE REPORT--BILL CONCURRED
 3/10 2ND READING CONCURRED 50 0
 3/12 3RD READING CONCURRED 50 0

 RETURNED TO HOUSE
 3/16 SIGNED BY SPEAKER
 3/17 SIGNED BY PRESIDENT

 3/18 TRANSMITTED TO GOVERNOR
 3/22 SIGNED BY GOVERNOR
 CHAPTER NUMBER 170 EFFECTIVE DATE: 3/22/87

HB 636 INTRODUCED BY WINSLOW
 IMMUNITY FOR DIRECTORS AND OFFICERS OF NONPROFIT
 CORPORATIONS

2/06 INTRODUCED
 2/06 REFERRED TO JUDICIARY
 2/17 HEARING
 2/20 TABLED IN COMMITTEE

HB 637 INTRODUCED BY WINSLOW
 ALLOW LEGISLATURE TO DETERMINE WELFARE AND HUMAN
 SERVICE BENEFITS

2/06 INTRODUCED
 2/06 REFERRED TO HUMAN SERVICES & AGING
 2/12 HEARING
 2/16 COMMITTEE REPORT--BILL PASSED
 2/18 2ND READING PASSED 66 32
 2/19 3RD READING PASSED 70 30

TRANSMITTED TO SENATE
 2/21 REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY
 3/13 HEARING
 3/23 COMMITTEE REPORT--BILL CONCURRED
 3/26 2ND READING CONCURRED 32 18
 3/28 3RD READING CONCURRED 33 17

RETURNED TO HOUSE
 4/01 SIGNED BY SPEAKER
 4/02 SIGNED BY PRESIDENT
 CHAPTER NUMBER 343 EFFECTIVE DATE: 1/01/89
 CONTINGENT ON VOTER APPROVAL

HB 638 INTRODUCED BY ADDY
 AMEND FISCAL MATTERS RELATING TO COUNTY ROAD LOCAL
 IMPROVEMENT DISTRICTS

2/06 INTRODUCED
 2/06 REFERRED TO LOCAL GOVERNMENT
 2/09 HEARING
 2/16 TABLED IN COMMITTEE

HB 639 INTRODUCED BY CORNE', ET AL.
 PROVIDE FOR REGISTERED PROCESS SERVER

2/06 INTRODUCED
 2/06 REFERRED TO LOCAL GOVERNMENT
 2/13 HEARING
 2/14 COMMITTEE REPORT--BILL PASSED AS AMENDED
 2/17 2ND READING PASSED 90 2
 2/18 3RD READING PASSED 86 2

Section 2. **Submission to electorate.** The question of whether section 1 of this act will become effective shall be submitted to the electors of Montana at the general election to be held November 8, 1988, by printing on the ballot the full title of this act and the following:

- ☐ FOR giving the legislature authority to levy up to 6 mills for the support of the Montana university system.
- ☐ AGAINST giving the legislature authority to levy up to 6 mills for the support of the Montana university system.

Section 3. **Effective dates.** (1) If approved by the electorate, section 1 of this act is effective January 1, 1989.

(2) Section 2 and this section are effective on passage and approval.

Approved April 3, 1987.

CHAPTER NO. 343

[HB 637]

AN ACT TO SUBMIT TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE XII, SECTION 3, OF THE MONTANA CONSTITUTION TO ALLOW THE LEGISLATURE GREATER DISCRETION IN PROVIDING ECONOMIC ASSISTANCE AND SOCIAL AND REHABILITATION SERVICES TO THOSE IN NEED; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Legislature historically has prescribed the public policy governing the provisions of economic assistance and social and rehabilitation services to those in need; and

WHEREAS, the Legislature is the appropriate body of state government to determine the needs of its residents; and

WHEREAS, the Montana Supreme Court, in a recent decision, determined that the Montana Constitution requires that statutes relating to such assistance and services are reviewable under a heightened scrutiny test; and

WHEREAS, the Legislature finds that it is in the public interest to restore to the Legislature the power to prescribe the provision of economic assistance and social and rehabilitation services to those in need, subject to review under the rational basis test.

THEREFORE, it is the intent of the Legislature to refer this constitutional amendment to the people of the state in order to restore the historical power of the Legislature to set eligibility level criteria for programs and services, as well as for the duration and level of benefits and services relating to economic assistance and social and rehabilitation services.

Be it enacted by the Legislature of the State of Montana:

Section 1. Article XII, section 3, of The Constitution of the State of Montana is amended to read:

"Section 3. Institutions and assistance. (1) The state shall establish and support institutions and facilities as the public good may require,

including homes which may be necessary and desirable for the care of veterans.

(2) Persons committed to any such institutions shall retain all rights except those necessarily suspended as a condition of commitment. Suspended rights are restored upon termination of the state's responsibility.

(3) The legislature *may* provide such economic assistance and social and rehabilitative services for those who, by reason of age, infirmities, or misfortune, *are determined by the legislature to be in need.*

(4) *The legislature may set eligibility criteria for programs and services, as well as for the duration and level of benefits and services."*

Section 2. **Effective date.** If approved by the electorate, this amendment is effective January 1, 1989.

Section 3. **Submission to electorate.** This amendment shall be submitted to the electors of Montana at the general election to be held November 8, 1988, by printing on the ballot the full title of this act and the following:

- ☐ FOR allowing the legislature greater discretion to determine the eligibility, duration, and level of economic assistance and social services to those in need.
- ☐ AGAINST allowing the legislature greater discretion to determine the eligibility, duration, and level of economic assistance and social services to those in need.

Approved April 3, 1987.

CHAPTER NO. 344

[HB 236]

AN ACT CLARIFYING PROVISIONS CONCERNING THE JUDICIAL NOMINATION COMMISSION; REQUIRING THE COMMISSION TO MEET BEFORE A VACANCY OCCURS ON THE SUPREME COURT OR DISTRICT COURT UNDER CERTAIN CIRCUMSTANCES; AMENDING SECTIONS 3-1-1010 THROUGH 3-1-1013, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 3-1-1010, MCA, is amended to read:

"3-1-1010. List submitted to governor — report on proceedings. If a supreme court justice or district judge gives notice of his resignation to take effect on a specific date, the commission shall meet as soon as possible after the justice's or judge's proposed resignation date has been verified by the chief justice of the supreme court. If no notice is given, the commission shall meet as soon as possible after a vacancy occurs. The commission shall submit to the governor within 30 days after the resignation

HOUSE BILL NO. 637
INTRODUCED BY WINSLOW

IN THE HOUSE

FEBRUARY 6, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON HUMAN SERVICES & AGING.
FEBRUARY 16, 1987	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 17, 1987	PRINTING REPORT.
FEBRUARY 18, 1987	SECOND READING, DO PASS.
FEBRUARY 19, 1987	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 70; NOES, 30.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 21, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY.
MARCH 23, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 26, 1987	SECOND READING, CONCURRED IN.
MARCH 28, 1987	THIRD READING, CONCURRED IN. AYES, 33; NOES, 17.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 30, 1987	RECEIVED FROM SENATE.
	SENT TO ENROLLING.

CONSTITUTIONAL AMENDMENT

1 House BILL NO. 637
2 INTRODUCED BY Winkler

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO SUBMIT TO THE
5 QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE XII,
6 SECTION 3, OF THE MONTANA CONSTITUTION TO ALLOW THE
7 LEGISLATURE GREATER DISCRETION IN PROVIDING ECONOMIC
8 ASSISTANCE AND SOCIAL AND REHABILITATION SERVICES TO THOSE
9 IN NEED; AND PROVIDING AN EFFECTIVE DATE."

10
11 WHEREAS, the Legislature historically has prescribed
12 the public policy governing the provisions of economic
13 assistance and social and rehabilitation services to those
14 in need; and

15 WHEREAS, the Legislature is the appropriate body of
16 state government to determine the needs of its residents;
17 and

18 WHEREAS, the Montana Supreme Court, in a recent
19 decision, determined that the Montana Constitution requires
20 that statutes relating to such assistance and services are
21 reviewable under a heightened scrutiny test; and

22 WHEREAS, the Legislature finds that it is in the public
23 interest to restore to the Legislature the power to
24 prescribe the provision of economic assistance and social
25 and rehabilitation services to those in need, subject to

1 review under the rational basis test.

2 THEREFORE, it is the intent of the Legislature to refer
3 this constitutional amendment to the people of the state in
4 order to restore the historical power of the Legislature to
5 set eligibility level criteria for programs and services, as
6 well as for the duration and level of benefits and services
7 relating to economic assistance and social and
8 rehabilitation services.

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Article XII, section 3, of The Constitution
12 of the State of Montana is amended to read:

13 "Section 3. Institutions and assistance. (1) The
14 state shall establish and support institutions and
15 facilities as the public good may require, including homes
16 which may be necessary and desirable for the care of
17 veterans.

18 (2) Persons committed to any such institutions shall
19 retain all rights except those necessarily suspended as a
20 condition of commitment. Suspended rights are restored upon
21 termination of the state's responsibility.

22 (3) The legislature shall may provide such economic
23 assistance and social and rehabilitative services as-may-be
24 necessary for those inhabitants who, by reason of age,
25 infirmities, or misfortune, may--have-need-for-the-aid-of

1 society are determined by the legislature to be in need.

2 (4) The legislature may set eligibility criteria for
3 programs and services, as well as for the duration and level
4 of benefits and services."

5 NEW SECTION. Section 2. Effective date. If approved
6 by the electorate, this amendment is effective January 1,
7 1989.

8 NEW SECTION. Section 3. Submission to electorate.
9 This amendment shall be submitted to the electors of Montana
10 at the general election to be held November 8, 1988, by
11 printing on the ballot the full title of this act and the
12 following:

13 ☐ FOR allowing the legislature greater discretion to
14 determine the eligibility, duration, and level of
15 economic assistance and social services to those in
16 need.

17 ☐ AGAINST allowing the legislature greater discretion
18 to determine the eligibility, duration, and level of
19 economic assistance and social services to those in
20 need.

-End-

STANDING COMMITTEE REPORT

SENATE

SCRHB639

HB 639

March 10, 1987

March 10, 1987

MR. PRESIDENT

Local Government

We, your committee on

House Bill

639

having had under consideration

No.

third

blue

reading copy (color)

PROVIDE FOR REGISTERED PROCESS SERVER

CORNE' (PINSONEAULT)

Respectfully report as follows: That House Bill No. 639

BE AMENDED AS FOLLOWS:

1. Page 1, line 17.

Strike: "county clerk and recorder"

Insert: "clerk of the district court"

2. Page 1, line 22.

Following: "employment;"

Insert: "or"

3. Page 1, lines 23 through 25.

Following: "attorney"

Strike: remainder of line 23 through "investigator" on line 25

4. Page 2, line 20.

Following: "fund"

Insert: "for district court operations, unless the county has a district court fund. If the county has a district court fund, the fee must be deposited in that fund"

5. Page 2, following line 25.

Insert: "NEW SECTION. Section 4. Training and certification of process servers. (1) The Montana law enforcement academy shall offer a course of instruction for process servers and levying officers at least twice during each calendar year after 1987. Each enrollee who completes the course and passes an examination administered by the law

enforcement academy must be certified by the law enforcement academy as a trained process server and levying officer.

(2) Upon applying to the clerk of the district court of any county for registration as a process server, an applicant shall apply for admission to the law enforcement academy course described in subsection (1). Failure to enroll in and successfully complete this course within a year after receiving a certificate of registration is grounds for revocation of the certificate.

(3) Each process server who enrolls in the course described in subsection (1) shall pay a tuition fee to the law enforcement academy that is sufficient to pay his share of the costs of offering the course."

Renumber: subsequent sections

6. Page 3, line 2.

Following: "The"

Strike: "county clerk and recorder"

Insert: "clerk of the district court"

7. Page 3, line 4.

Following: "The"

Strike: "county clerk and recorder"

Insert: "clerk of the district court"

8. Page 3, line 10.

Following: "POSSESSION"

Strike: "A BADGE"

Insert: "an identification card"

9. Page 3, line 11.

Following: "AND"

Strike: remainder of line 11

10. Page 3, line 12.

Following: "SERVER."

Insert: "The clerk of the district court shall furnish the identification card, the cost of which must be reimbursed by the process server."

11. Page 3, lines 13.

Following: "required."

Insert: "(1)"

12. Page 3, lines 13 and 14.

Following: "The"

Strike: "county clerk and recorder"

Insert: "clerk of the district court"

XXXXXX

XXXXXX

CONTINUED

Chairman

CONTINUED

March 10, 1987

13. Page 3, line 16.

Following: "bond of"

Strike: "\$2,000"

Insert: "\$10,000 per individual or \$100,000 per firm"

14. Page 3, line 17.

Following: "through"

Strike: "8"

Insert: "9"

15. Page 3, following line 18.

Insert: "(2) A levying officer may not levy on a judgment that exceeds the value of the bond."

16. Page 3, line 24.

Following: "section"

Strike: "5"

Insert: "6"

17. Page 4, lines 3 and 4.

Following: "county"

Strike: "clerk and recorder"

Insert: "attorney"

18. Page 4, line 8.

Strike: "clerk and recorder"

Insert: "attorney"

19. Page 4, line 11.

Following: "county"

Strike: "clerk and recorder"

Insert: "attorney"

20. Page 4, lines 16 through 20.

Strike: subsection (3) in its entirety

Insert: "(3) The county attorney shall notify the clerk of the district court when a certificate of registration is suspended, revoked, or reinstated."

21. Page 4, line 25.

Following: "section"

Strike: "4"

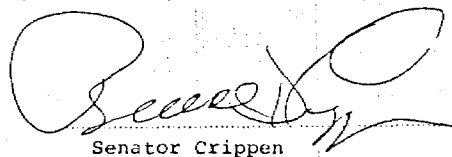
Insert: "5"

22. Page 13, following line 25.

Insert: "NEW SECTION. Section 29. Extension of authority. Any existing authority of the department of justice to make rules on the subject of the provisions of this act is extended to the provisions of this act."

AND AS AMENDED,
BE CONCURRED IN

KMC


Senator Crippen

3/11/87
4:20
JCS

CONSTITUTIONAL AMENDMENT

HOUSE BILL NO. 637

INTRODUCED BY WINSLOW

A BILL FOR AN ACT ENTITLED: "AN ACT TO SUBMIT TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE XII, SECTION 3, OF THE MONTANA CONSTITUTION TO ALLOW THE LEGISLATURE GREATER DISCRETION IN PROVIDING ECONOMIC ASSISTANCE AND SOCIAL AND REHABILITATION SERVICES TO THOSE IN NEED; AND PROVIDING AN EFFECTIVE DATE."

WHEREAS, the Legislature historically has prescribed the public policy governing the provisions of economic assistance and social and rehabilitation services to those in need; and

WHEREAS, the Legislature is the appropriate body of state government to determine the needs of its residents; and

WHEREAS, the Montana Supreme Court, in a recent decision, determined that the Montana Constitution requires that statutes relating to such assistance and services are reviewable under a heightened scrutiny test; and

WHEREAS, the Legislature finds that it is in the public interest to restore to the Legislature the power to prescribe the provision of economic assistance and social and rehabilitation services to those in need, subject to

review under the rational basis test.

THEREFORE, it is the intent of the Legislature to refer this constitutional amendment to the people of the state in order to restore the historical power of the Legislature to set eligibility level criteria for programs and services, as well as for the duration and level of benefits and services relating to economic assistance and social and rehabilitation services.

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(2) Persons committed to any such institutions shall retain all rights except those necessarily suspended as a condition of commitment. Suspended rights are restored upon termination of the state's responsibility.

(3) The legislature shall may provide such economic assistance and social and rehabilitative services ~~as may be necessary~~ for those inhabitants who, by reason of age, infirmities, or misfortune, ~~may--have-need-for-the-aid-of~~

society are determined by the legislature to be in need.

(4) The legislature may set eligibility criteria for programs and services, as well as for the duration and level of benefits and services."

NEW SECTION. Section 2. Effective date. If approved by the electorate, this amendment is effective January 1, 1989.

NEW SECTION. Section 3. Submission to electorate. This amendment shall be submitted to the electors of Montana at the general election to be held November 8, 1988, by printing on the ballot the full title of this act and the following:

☐ FOR allowing the legislature greater discretion to determine the eligibility, duration, and level of economic assistance and social services to those in need.

☐ AGAINST allowing the legislature greater discretion to determine the eligibility, duration, and level of economic assistance and social services to those in need.

-End-

of the law, would court order that child immediately to Montana State Hospital.

In response to a question from Rep Simon, Rep Menehan stated he had no objections to asking the department to develop a long range plan for these youth and for a service delivery system, but that he was not trying to open the door to new treatment facilities. He stated he hoped the new family services bill will help solve some of these problems. Rep Menahan continued with the issue of funding by adding out of state facility placement services should not come out of the institutions budget but out of the mental health budget.

In response to an inquiry from Rep Sands, Mr Chisholm noted federal law prohibits youth and adults from being detained together in a jail facility, but stated he was not aware of any specific federal prohibition against youth and adults in mental care facilities, even through the department would admit it is not appropriate to mix those populations on the same campus.

CONSIDERATION OF HOUSE BILL 637

REP CAL WINSLOW, Billings, introduced this legislation which would submit to the qualified electors of Montana an amendment to article XII, section 3, of the Montana constitution to allow the legislature greater discretion in providing economic assistance and social and rehabilitation services to those in need. He stated the U.S. constitution states we should provide for the common defense and promote the general welfare of the people, whereas the Montana constitution states we should provide for the common defense and provide for the general welfare of the people. He said under court interpretation of the Montana constitution 18 months ago, the courts have taken away the ability of the legislature to set any priorities in the areas of human services. Rep Winslow stated general assistance rolls have moved from 700 to 2,000, the AFDC caseload is totally out of control, and the Medicaid program has gone from a \$33 million program in 1976 to \$176 million by the year 1989. He said unless decisive and difficult decisions are made on the part of the legislature, we are fast approaching the point where 35% to 50% of the entire general fund budget will go in the area of human services. Rep Winslow noted he wanted the committee to recognize this bill does not deal only with general assistance, but gives the legislature the ability to set limits and priorities for the state in all areas of human services. He expressed his concern if action is not taken in the growth of the human services programs, a public initiative will be introduced to wipe the programs out, including services to those who are truly needy. He added it

is difficult to address this issue without building the perception that you are out to get one group of people or another, which is not the case. He explained this bill will only pass on to the voters the ability to give back to the legislature what has to be the legislature's ability to set priorities and determine need. He added that without this ability we will have exactly what we have today - no control on an out of control situation. Rep Winslow said we can't set a limit on taxation if we can't set a limit on expenditures and priorities.

PROPONENTS

REP GENE DONALDSON, Helena, spoke in support of the legislation and noted the legislature should have the right and responsibility to set priorities in spending. He stated he felt we are rapidly approaching a crisis situation in the human services area. Rep Donaldson stated if the legislature does not address this issue, the public will, and when they do, perhaps the recipients will be the ones who will be hurt. He noted in the years he has served in the legislature he has found the legislature is a compassionate group and do what is right in setting priorities.

REP BOB MARKS, Clancy, stood in support of the legislation. He stated he felt the system is so out of control that a risk exists for opportunity of businesses in the state unless something can be done to control the costs that are falling back on the taxpayers who are trying to remain here; those people who are providing the jobs for the people who are striving to get them. Rep Marks stated the legislature needs the authority to set limits and flexibility to work, which it does not have now due to the court's liberal interpretation of the constitution. He added the state cannot do everything for everybody, it will go broke, then there will be nothing for anybody.

REP SIMON spoke in support of the legislation and noted the sensitivity Rep Winslow has for the needy of the state. He noted there has been a shift in the way Montana has done business in recent years due to court decisions, with the representative body's authority eroded to where the courts are making all the decisions for the state. Rep Simon stated that instead of a body of 100 people sensitive to the needs of people because they are elected by those people, we now have a situation where seven (7) people are making those priority decisions.

DAVE LEWIS, Director, Department of Social and Rehabilitative Services (SRS), noted the rapid growth in the human services budget, particularly the SRS budget over the last two (2) years, has caused a lot of problems for the state in

appropriating its very scarce funds. Mr Lewis said what keeps drawing us back to this point and issue is that at the present time the SRS budget is over 1/2 a billion dollars for the biennium, with a projected \$550 million for the coming biennium. He stated he had notified the Human Services subcommittee yesterday the medicaid budget had to be increased from \$281 million to \$316 million based on the excellerated growth in the program since the executive budget was developed last summer. He added these type of increases are causing major trauma for everyone. He stated everyone is interested in what the lowest priority programs are when dealing with the SRS budget, and he said when he looks at all of the people who are served: foster care, DD services for the mentally retarded, vocational rehabilitation, AFDC for families with small children, the medicaid budget, the lowest priority the department has are the able bodied unemployed. Mr Lewis added he is not saying those people do not need assistance, but is saying if he does not have enough money to provide services to the DD community or medicaid, he has to propose, in all honesty, that reductions are made in the programs for the able bodied unemployed. He explained the department has been in court two times on this issue; losing to the supreme court once which stated "The state's objective of saving money must be balanced against the interest of the misfortunate people under the age of 50 in receiving financial assistance from the state". He added in other words we have to show the supreme court, under the existing constitution, that the state's interest in classifying these recipients exceeds the need of those people to receive services, and he stated he didn't know how to accomplish that. He continued by explaining what this constitutional amendment says is that the legislature does have the right to set priorities; it does not say that anyone will be cut off of services. He said presently the legislature does not have that right and every year the human services budget will take more and more money for human services for badly needed programs and leave a lot less for everything else. He noted legislators don't have the ability to go back to constituents and say they really looked at setting priorities within all of the state expenditures because one big chunk of the state budget is really safe from legislative scrutiny. He concluded by saying the legislature doesn't have the ability to talk about setting priorities and reducing services unless we make this change in the constitution.

OPPONENTS

TEENA LINDERMAN, Montana Low Income Coalition (MLIC) and LIGHT of Missoula, read her prepared testimony (exhibit 3) in opposition to the legislation. She stated the following points in her testimony: (1) budget crisis cannot be equated

with human lives, (2) the constitution provides a safety net during times of economic bust for the state, (3) the SRS budget comprises only 18% of the state budget, and (4) most general assistance recipients work for their checks.

MARK CARPENTER, Anaconda MLIC, read his prepared testimony in opposition to HB 637 (exhibit 4).

DON JUDGE, AFL-CIO, expressed the organization's opposition to the legislation, and stated Montana's ability and commitment to support those who are in need is being called into question. He stated he believed the question was not really can we help but how can we not help. He added the department of Labor forecasts 39,000 Montanans officially out of work in January, not including those too discouraged to find employment or those who have taken part time work because no full time employment is available; which would reveal the real number of unemployed. Mr Judge stated last March that total was about 63,000 people, which is equal to the combined populations of Missoula, Malta, Lewistown, Libby, Ennis, Polson, Thompson Falls, Cut Bank and Laurel. He added in Montana only 29% of the unemployed receive any type of unemployment compensation benefits.

STEVE HEGGE, Butte, read testimony for Karen Anderson, Butte, Community Union, in opposition to the legislation (exhibit 5). Her testimony included her beliefs our state constitution is unique by guaranteeing the right of assistance to all citizens. Mr Hegge explained his experience of being unemployed and living in tent cities.

JIM HEMINGWAY, Missoula, spoke in opposition to the legislation on behalf of the handicapped and the senior citizens.

JEANNE-MARIE SOUVIGNEY, League of Women Voters of Montana, read her prepared testimony (exhibit 6) which stated the need for reform in the state welfare system should not be addressed by allowing the legislature to refuse to provide for our truly needy.

LOWELL JOHNSON, Concerned Citizens Coalition, Great Falls, opposed the constitutional amendment because it would allow the legislature greater discretion in providing economic assistance and social rehabilitation services to those in need.

ORAL RILEY, Montana Senior Citizens Association, spoke in opposition to this bill, stating giving the legislature this authority would be a tragic mistake. He added penalizing the victims of the economy is no solution to the problem.

BILL PERRY, Butte, read a prepared statement from Tom Hahn, Butte Community Union, in opposition to the proposed legislation (exhibit 7) and expressed his own opposition.

VERBIE ELLIS, representing AFDC mothers and GA recipients, read her prepared text in opposition to HB 637 (exhibit 8). She suggested opening up gambling in the state to create jobs and increase tax revenues, and expressed her support for the four percent (4%) accommodations tax.

SAM RYAN, Montana Senior Citizens Association

TOM POWERS, Butte

JIM SULLIVAN, Butte Community Union

REP WINSLOW closed testimony on HB 637 by stating this bill does not change the constitution, but gives the public the opportunity to decide whether they want to change the constitution and give the legislature the ability to set limits on their dollars. He stated the state's financial dilemma is a dilemma of the legislature and public. He expressed his amazement when groups like the senior citizens oppose this bill, because within the next few days the subcommittee will consider optional services affecting that group, i.e. dentures, hearing aids, eyeglasses, as well as limitations on nursing homes and the medicaid waiver which maintains individuals in their homes versus nursing home care. These must be considered for reduction or elimination because the legislature cannot set priorities in other programs. He stated the public will not continue to let the budget be eaten up by human service programs. Rep Winslow added we are quickly approaching the point in the state where we will have more people on assistance payments than we have people working. He noted we do have a problem with getting the state back on its feet, which he hopes the legislature will address, in the meantime, this amendment gives the people the right to decide what are the needs. He described as unfair public perception that they are sending legislators to Helena to decide how to limit their taxes and set priorities when the fact is there is no choice because of the court interpretations, and that spiral will continue to grow without the priority setting ability. With that Rep Winslow closed the testimony on HB 637.

In response to questions from Rep Kitselman, Mr Lewis restated testimony from the special session relative to 100 to 150 irrigator positions in the Dillon area that could not be filled, and an exemption was obtained from the federal government to allow migrant workers to come in to fill the positions. He explained GA benefits were \$212 a month plus

food stamps and he believed the jobs paid around \$4.00 an hour, above the GA benefit level.

Responding to Rep Russell on the same incident, Mr Judge stated the actual level of experience necessary to meet the qualifications expected of the applicants was so high that many of those who traditionally performed those jobs on a seasonal basis would not be eligible. He said the requirement was at least six (6) months of actual physical experience in performing irrigating work and be able to move 40 sections of pipe an hour in order to apply for the job. The pay level was in excess of \$4.00 an hour and an incentive based on how many pieces were moved.

CONSIDERATION OF HOUSE BILL 627

REP STRIZICH introduced this legislation which would require the department of Institutions to establish and maintain two additional youth evaluation programs; prohibiting an evaluation of a youth from being performed at Mountain View School or Pine Hills School except under certain circumstances. He stated the bill addresses two 2 problems: the detention of youth in communities that are found to be in violation of laws, and the evaluation of troubled youth when found necessary by the youth justice system.

PROPOSERS

STEVE NELSON, Board of Crime Control, spoke in support of the legislation and presented exhibit 15 to the committee covering the legal and programmatic background of the legislation and conclusion of the rationale for this legislation.

RICHARD MEEKER, Chief, Juvenile Probation Department, First Judicial District, spoke in behalf of the Juvenile Probation Officers Association of Montana in support of the legislation. He stated a critical area is the impact detention will have on the child and the need to separate them from adults. He also elaborated on the negative impact that can occur with the evaluation process and improper placement.

JOY MCGRATH, Mental Health Association of Montana, expressed their support for the legislation.

CURT CHISHOLM, Department of Institutions, stated the legislation would ask the department to do things differently, and stated he would answer any questions from the committee concerning this bill.

REP STRIZICH closed testimony on House Bill 627 and noted there were no simplistic answers to the problems in

A voice vote was taken and the motion PASSED unanimously.

EXECUTIVE ACTION - HOUSE BILL 627

REP STRIZICH moved DO PASS.

REP STRIZICH made a motion to amend HB 627 with the following: page 2 line 13, insert "subject to the availability of funding, that the Department of Institutions shall", strike "for to" and insert "additional"; line 17, following "youth court", insert " to replace comparable services located at state institutions", section two (2) - delete in its entirety; page 1, line 13, following (1), strike "The", insert "subject to the availability of funding, the"; on page 1 line 14 strike "for to", insert "additional"; page 1, line 17, following "court", insert "to replace the comparable services located at state institutions".

A voice vote was taken and the motion PASSED unanimously.

REP HANSEN made a motion that HB 627 DO PASS AS AMENDED.

A second roll call vote was taken and the motion PASSED, 12 votes yes, and six (6) votes no.

EXECUTIVE ACTION - HOUSE BILL 637

REP SIMON made a motion that HB 637 DO PASS.

A roll call vote was taken and the motion PASSED, twelve (12) votes yes, six (6) votes against.

EXECUTIVE ACTION - HOUSE BILL 641

REP CODY moved DO PASS.

REP CODY made a motion to adopt the amendment to HB 641 (exhibit 8).

A voice vote was taken and the motion PASSED unanimously.

REP CODY made a motion that HB 641 DO PASS AS AMENDED.

A voice vote was taken and the motion PASSED, with Rep Hansen voting no.

EXECUTIVE ACTION - HOUSE BILL 647

REP HANSEN moved DO PASS.

REP HANSEN moved to amend HB 647 (exhibit 9).

A voice vote was taken and the motion PASSED unanimously.

REP HANSEN made a motion that HB 647 DO PASS AS AMENDED.

ROLL CALL VOTE

HUMAN SERVICES AND AGING

COMMITTEE

DATE FEB 14, 1987 BILL NO. HB # 637 NUMBER 3

NAME	AYE	NAY
REP. BUDD GOULD, CHAIRMAN		
REP. BOB GILBERT, VICE CHAIRMAN		
REP. JAN BROWN		
REP. DUANE COMPTON		
REP. DOROTHY CODY		
REP. DICK CORNE		
REP. LARRY GRINDE		
REP. STELLA JEAN HANSEN		
REP. LES KITSELMAN		
REP. LLOYD MC CORMICK		
REP. RICHARD NELSON		
REP. JOHN PATTERSON		
REP. ANGELA RUSSELL		
REP. JACK SANDS		
REP. BRUCE SIMON		
REP. CAROLYN SQUIRES		
REP. TONIA STRATFORD		
REP. BILL STRIZICH		

TALLY

12

1

Secretary

Chairman

MOTION: REP. SIMON moved DO PASS - the motion CARRIED with
12 favorable and 6 opposing votes.

STANDING COMMITTEE REPORT

FEBRUARY 14, 1987 19

Mr. Speaker: We, the committee on HUMAN SERVICES AND AGING
report HOUSE BILL NO. 637

☒ do pass

☐ do not pass

☐ be concurred in

☐ be not concurred in

☐ as amended

☐ statement of intent attached

REP. RO. JUDS COULD,

Chairman

ALLOW LEGISLATURE TO DETERMINE WELFARE AND HUMAN SERVICE BENEFITS

FIRST

reading copy (WHITE)
color

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
MONTANA STATE SENATE

March 13, 1987

The meeting of the Senate Public Health, Welfare and Safety Committee was called to order by Chairman Dorothy Eck on March 13, 1987, in Room 325 of the State Capitol.

ROLL CALL: All members of the committee were present.

ACTION ON H.B. 364: Karen Renne explained two sets of amendments to H.B. 364. Sen. Meyer moved that the first set of amendments receive a DO PASS. The vote to pass was unanimous.

The second set of amendments stated that only the denturist and the public members could vote on matters relating solely to denturists and that that provision would sunset in 1989. Sen. Himsl moved that the amendment DO PASS.

Sen. Williams: Then if the business concerns only dentists, then only the dentists vote?

Karen Renne: That is not significant because the public members and the hygienists are required to vote.

Sen. Rassmussen: The president of the board is a dentist and he would be voting on denturity matters.

Karen Renne: The president of the board is not necessarily a dentist.

Sen. Rassmussen: If the dentists do not vote on denturist matters, then the denturist should not vote on dentist matters. That was the original amendment and I move that it be substituted for the second set of amendments. The vote on the substitute motion was unanimous.

Sen. Vaughn: I move that H.B. 471 BE CONCURRED IN AS AMENDED. Nine senators voted in favor of the amendment; Sen. Norman voted no. Sen. Jacobson will carry the bill.

CONSIDERATION OF HOUSE BILL NO. 637: Rep. Cal Winslow, District # 89, sponsor of H.B. 637, opened his testimony by stating that the SRS budget alone will be \$200,000,000 in 1988 and \$289,000,000 in 1989. The budget needs to be balanced among University and education needs, human services and other necessary state services. The Supreme Court has taken out of the hands of the legislature the ability to set priorities and something now has to fall by the wayside. This bill gives power rightfully back to the legislature to set spending priorities. If this bill passes, the people of the state will have the right to vote and to determine that they want the legislature to set the spending priorities. In the last ten years the growth in human services has been phenomenal. AFDC has increased from \$29,000,000 to \$93,000,000, while Medicaid has increased from \$33,000,000 to \$330,000,000 in the last ten years. The bill does not make for easy decisions for the legislature, but it does give the legislature the ability to set priorities.

PROPOSERS: Budd R. Gould, Rep. District # 61, testified that he will never

forget his first experience at Boulder in 1974 and the 110% turnover in staff. By 1983, Boulder had a much lesser turnover. As a member of the National Committee on the Handicapped, he visits in California and New York and finds that they are way behind Montana in services. Montana is a model, but it needs to set priorities to continue good services. He stated that he has faith that the public will vote correctly and that the Legislature will be able to work on priorities, such as de-institutionalization programs. Montana can't do a good job if it is totally devoid of funds.

Dave Lewis, SRS, testified that he proposed this legislation three sessions ago; the budget was \$6,000,000 short then and, at that time, he urged the legislature to set priorities. He felt that the lowest priority were the able-bodied unemployed under thirty-five with no children. That legislation was declared unconstitutional by the Supreme Court, as was legislation at the next session to eliminate assistance to the able-bodied under fifty to sixty days a year, if they had no dependent children. In Jan., 1986, the Supreme Court again held this law unconstitutional. The court developed a middle-tier test which the legislature should apply to all public assistance legislation: that its classification of welfare recipients is reasonable and that its interest in classifying welfare recipients is more important than the people's interest in obtaining welfare benefits. Saving money is to be balanced against the interests of misfortunate people. A district court judge recently ruled that the termination of benefits to "able-bodied" persons did not meet the "reasonableness" test. The Montana State Supreme Court is the first court in the nation to establish this "middle-tier" test for welfare legislation, and it is believed that the court will apply this test to federal welfare programs, as well. Montana is not required to adopt these programs (Medicaid, AFDC, food stamps), but if it does, the federal government will only reimburse the state if eligibility is determined in accordance with federal rules. If the Montana courts determine that federal eligibility rules do not meet the higher standard of review, then 100% of state funds must be used to pay for equivalent welfare assistance. The Legislature needs to have control over this spending and to set priorities. This bill will place that control back in the hands of the legislature. Exhibit # 1.

Rep. Bob Marks, District # 75, testified that the legislature has been struggling with priorities in the budget. If the welfare budget is out of control, then it can't be balanced with the other needs of the state. The legislature has been compassionate, but limitations are reasonable when there are other priorities. The voters should have the option to vote on the issue.

Riley Johnson, Federation of Independent Businesses, stated that the people who are paying the bills should establish the priority in spending money. The people have designated the legislature to determine priorities and set spending.

Vera Cahoon, Missoula County Freeholders, stated that the taxpayers support and want the legislature to have the power to prioritize needs and to bring the budget into line with available monies.

Julie Hacker, taxpayer, stated that a constitutional amendment is appropriate with the state's large budget problem. Rising costs and rising taxes are a strain on the state's population. The issue should be put on the ballot for the taxpayers to decide.

Diane McGibbon, Small Business Association, Helena, stated that they favor the amendment, because the state needs to control spending for business and economic growth.

OPPONENTS: George Harper, Montana Association of Churches and himself, delegate to the 1972 constitutional convention, stated that the MAC opposes making the provision of services to those in need an optional service rather than a mandated duty of the state legislature. Instead of having a constitution which says that the legislature shall provide such economic and rehabilitative services as may be necessary for us, the constitutional amendment says that the legislature may provide such help, and when may is used, may not is understood by anyone who can read the English language. The constitution then would say: The legislature may or may not provide aid.... The framers of the constitution never questioned the idea of the state's responsibility for helping its citizens who cannot help themselves. The thought that it might be optional never occurred to the delegates. The first state constitution also assumed the burden of providing necessary aid; the question was merely "by whom".

The bill agrees with the constitution in several provisions until it states that the legislature finds it in the public interest to restore to the legislature the power to prescribe the provision of economic assistance and social and rehabilitative services to those in need...but the WHEREASES in the previous statements stated that the legislature always had that power. Then the THEREFORE wants to refer the amendment to the people of Montana in order to restore the historical power to the legislature to set programs and services.

The basic change in all this is the use of the word may, which makes the services optional. Now the legislature may or may not be mandated to provide services. The bill should read: for allowing the legislature the option of not providing services, or against allowing the legislature the option of not providing services to those in need. The MCA hopes that the legislature will not abandon its historical position as expressed in both state constitutions. There should be absolutely no question as to whether those in need can expect help in a civilized society. Exhibit # 2.

Estrella Vayasimon, Butte-Silverbow community, stated that basic human needs should not be compromised by the political process. Those in need are least able to participate in the political process. This bill would return the state to a dark age of starvation and disease. Caring for the needy should not be such a political decision. Budget constraints should not destroy taking care of human needs. Exhibit # 3.

Jean-Marie Souvigny, League of Women Voters, stated that the league supports assistance to meet basic human needs for persons unable to work or for whom jobs are not available. While the league understands the state's frustration

of trying to make budget ends meet in a depressed economy, the League opposes amending the constitution as the only way to address those costs. The league reminds the committee that the court decided that there is no constitutional right to welfare, and it not a right upon which constitutionally guaranteed rights depend. In addressing the the state law adopted last year, the Supreme court found that the state had failed to show that misfortunate people under the age of fifty are more capable of surviving without assistance than are people over the age of fifty. These divisions are arbitrary, and our law was declared unconstitutional.

There are twenty-three bills to amend the constitution this session, and the legislature needs to decide at what point you don't have to amend the constitution to solve the state's problems. In this case, the state has the ability now to determine benefit levels and funding for optional services, and the legislature is looking at several alternatives on dealing with welfare costs. The league urges the legislature to look at these alternatives before amending the constitution in such a drastic way. This bill amends the constitution to allow the legislature to decide whether to provide such services, even when the legislature has determined that there is a need. Exhibit # 4.

Willa Dean, Montana Senior Citizens, Billings, stated that the senior citizens feel that passage of this bill will cause very real problems for Montana's citizens, and she presented to the committee petitions from Billings of people who oppose this bill. Exhibit # 5.

Wilbur Johnson, Great Falls, Low Income Coalition, stated that it is the purpose of the legislature to provide services to reduce suffering from infirmities and to provide assistance to those suffering from other problems. Jobs need to be created for many more people to help solve the problem. Exhibit # 6.

Paul Carpino, Ovando, Regional Coordinator for Hands Across America, stated that he organized the northwest states for this demonstration. He has found that homelessness is a rapidly growing problem in this country and that one third of the homeless are children. Other states have even more serious problems than Montana, because Montana has had a commitment to take care of its own. Other states are impressed with Montana's compassion, and that the state has largely prevented homelessness through its policies. There are other forms of just alternatives to solving the state's budget problems besides this amendment.

Dan Shea, Helena lawyer, member of the Montana Supreme Court for eight years, testified that if the legislature is going to submit this constitutional amendment to the people, then they should do it honestly. As it is, it is fraud on the voters of Montana, a fraud on the recipients of aid, who are the scapegoats, because, at present, the legislature has all the power it needs. The Supreme Court simply said that the state must act fairly. The legislature always has the right and the power to abolish the constitutional provision to welfare. There is no need to amend the constitution and the people need to be told that. The Legislature would never dare to deal with the provision of institutions in this way, but they are willing to scapegoat people in need. The legislature is saying "how we want to be our brother's keeper."

Jack Zink, Montana State AFL-CIO, stated that the framers of the Constitution made clear Montana's commitment to providing economic assistance and social rehabilitation services for those inhabitants who may have need of it. H. B. 637 proposes to soften the constitution just when a stagnant job market and crumbling economy are worse than they have been since the Depression. Montana has one of the highest rates of unemployment in the nation and has many people working only part-time because full-time employment is not available. Unemployment is a big, persistent, state and national problem with very serious costs and low incomes and poverty. These problems bring daily concern and daily tragedy for many Montanans and their families. Now, through H.B. 637, the legislature is seeking to reduce general assistance that has historically been the life line for those who have fallen through the "safety net". This bill allows the state to turn its back on those who have no place else to turn. Montana may create a permanent class of unemployed and a polarized, two-tier society.

Exhibit # 7.

Judith Carlson, Montana Chapter, National Association of Social Workers, and the Montana Senior Citizens, questioned the motivation of this amendment to the state constitution, stating that there is a widespread perception that the Legislature can do nothing to control the costs of welfare. Because the court has overturned a couple of pieces of legislation to restrict programs, the legislature seems to have adopted a "nothing we try" works attitude without this constitutional amendment. She represents people who receive payments for Medicaid and social workers who provide services and receive payments for professional services; both "sides of the fence" say there is no need to change our constitution. Both SRS and the Legislature now have the authority to control rising costs; SRS has already stabilized GA costs humanely and SRS has used Medicaid to fund many problem areas that would otherwise have to be funded out of the general fund at a higher cost. Unfortunately, health care costs have escalated at far beyond the regular inflation rates. Other economic factors, such as the Arab nations lowering the price of oil and agricultural policies that have gone awry, have affected the state's adversely; should we let these factors control what we think is best for the people of Montana?

Exhibit # 8.

Pamela Marshall, Montana People's Action, stated that the bill would open the door to too many cuts, which could cause future catastrophies. By reducing the funds available for public assistance, the legislature is seeking short-term goals without regard for long-term results. As a single mother living on AFDC while attending college, this bill threatens her future and the future of her children because the funds she uses to go to college to prepare her for a better-paying job in a technological society will very likely be cut. By using those funds now to obtain an education, she will remove the stigma from herself of being an uneducated person on public welfare and become a productive person in society with the ability to inspire her own children. She also opposed the legislation because the legislature is too far removed from the immediate needs of the people and the people with great expertise in these area should regulate these programs.

Exhibit # 9.

Jim Morton, Human Development Resource Councils, stated that while there is a need to control the general assistance budget, nevertheless, the HRDC's are working to make sure that they are running well-serving programs; their clients are involved in work training and work search. The people running the programs do understand their obligations to the legislature and to the public and are committed to controlling costs. But, nonetheless, a right to assistance is a fundamental right of the people of the state.

Linda Foss, Missoula Workfare recipient, stated that she works forty-two hours a week, plus spends additional hours in volunteer work, trying to help others. She stated that she will start school in September to become even more productive. She feels that the state will lose many people who want to work here and stay here, if this legislation is passed.

Carolynn Goode, Miss Wheelchair Montana, stated that the disabled strongly oppose H.B. 637. If the state starts cutting, where will the cutting stop?

Randy Rachlis, Helena Clergy and Laity Concerned, stated that this organization represents an interfaith community of persons from a variety of faiths who care about the protection of human rights and the promotion of economic justice. This bill is a profound step backward in the state's sacred and public commitment to help those hit hard by adversity. The state's need to provide for social and economic justice for the poor is not an option and our Constitution should not be changed in this regard. The state should live up to this commitment, rather than break a commitment enshrined in the Constitution.

Exhibit # 10.

Edith Carpenter, Montana Low-Income Coalition, Anaconda, testified that there are approximately ninety people from Anaconda on general assistance and others who are needy because of the economic times. These people would rather have jobs than depend on aid, but jobs are not available. By changing the Constitution, we are telling these people that we no longer care.

Hugh Stanley, citizen, stated that the people of this state are working but that they need help, and they have to watch their sons and daughters leave the state in order to find work.

Rev. Tony Duvernay, Cathedral St. Helena, stated that he fears for those in need now and in the future. Assistance now is practically a misnomer and it will be less in the future.

Betty Garner, Helena citizen, stated that she has worked most of her life; and while she is receiving general assistance now, she is looking and very much wants to get a job. She opposes this bill.

Diane Sands, Women's Lobbyist Fund, stated that social and economic justice should be provided for all citizens. Basic needs should be provided for, while this bill makes service discretionary and a matter of good will. The bill will affect not only general assistance, but also all other state programs such as AFDC, Child welfare, aging services, services for the developmentally disabled, etc.

There are other options to this legislation; while the WLF understands the pressures on the legislature, they have also passed many bills which are tax giveaways to many corporations in state industries. The poor do not need to be taken away from, and the state should not retreat from its commitment in the constitution.

John Ortwein, Montana Catholic Coalition, stated that the Catholic Church's concern for human life is the duty of the whole of society of which the government is a part. Society acting as a whole, through public and private institutions, has the moral responsibility to enhance human dignity and protect human rights. Government has an essential responsibility in this area to safeguard human rights and ensure that the minimum conditions of human dignity are met for all. It would seem that the drafters of the Montana Constitution had this vision when they drafted the constitution. We would hate to have this clear message changed. Exhibit # 14.

Roger Hill, Low Income Coalition, stated that if this bill passes, it might be possible that fifty percent of the people will be living on the streets without food. Veterans support defeat of the bill and feel that the legislature should really concern itself with employment. People do want to work and they need training and education. Employers need to be encouraged to come here and benefits need to be good.

Steve Hall, General Assistance recipient, stated that he is on a work-fare program and has been looking for work for a long time.

Mary Jean Gould, Bozeman Housing Coalition, stated that she is two credits away from a doctorate, but that now the psychology department at MSU is being eliminated. She has lost many jobs through no fault of her own. The losses were often accompanied with the statement, "You're bright, you're talented, you'll figure it out." She fears that most bright, talented people will have to leave the state in order to find work. Exhibit # 15.

Vern Sanders, Great Falls, stated that the one-word change that the legislature desires would only be of benefit to the legislature at this time. The Constitution belongs to the people and the legislature does not have the right to change it. General Assistance recipients should not be having to travel to Helena to fight this change. If the state were governed properly, perhaps it wouldn't have so many welfare recipients. Why is the state so far in the hole that it needs to change the Constitution? The state needs jobs and taxpayers, not people leaving.

Karen Anderson, Butte Community Union, stated that many people who oppose H.B. 637 could not be present today because of lack of transportation or because they find appearing before such a powerful body extremely frightening. Nevertheless, these people need to be remembered and their basic needs need to be remembered. Exhibit # 16.

Bob Campbell, delegate to the 1972 Constitutional Convention, stated that the legislature should take changing the Constitution very seriously. Its basic

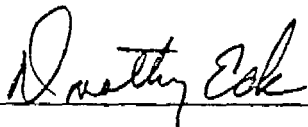
principals are there to follow in any kind of time. The legislature has the discretion now to authorize expenditures. This bill is only going to create hysteria in the state, the ballot issue will be costly, and it won't really solve the problem.

DISCUSSION OF HOUSE BILL NO. 637: Sen. Williams: I would like to have Judith Carlson, Cal Winslow, and George Harper speak to me later because I am bothered by people not having the faith to have this voted on.

Rep. Winslow closed by stating that welfare costs are a significant issue, which all states are addressing. \$3000 are spent per minute in Montana on welfare costs, and the legislature needs the ability to fix the welfare system. It not an easy job to sit on the Appropriations committee and cut, but because of the increasing case load, they just can't offer all the services. The people testifying don't have to be responsible for going back home to the voters. Montana is a leading state in welfare expenses per capita. The people from 1972 should not have done away with the ability to amend the constitution, because people need to change it with changing times.

The courts have taken away the ability to set limits, and with no limits, no one will be working in Montana and all working pockets will be empty. The legislature is not taking away the option from the voters to vote on the amendment. The bill simply gives to the legislature the ability to set the priorities for the state.

The meeting adjourned at 3:10 P.M.



CHAIRMAN

SEN. ... & WELFARE
EXH. 1
DATE 3-13-87
BILL 637

TESTIMONY OF THE DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES
IN SUPPORT OF HOUSE BILL 637

The Department of Social and Rehabilitation Services supports House Bill 637 which has been introduced by Representative Cal Winslow. This amendment to Article XII, Section 3 of the Montana Constitution is essential in order to provide more discretion to the legislature in the adoption of statutes pertaining to public assistance benefits. On January 16, 1986 the Montana Supreme Court held unconstitutional those provisions of House Bill 843 (passed by the 1985 Montana Legislature) which restricted or denied public assistance to able-bodied persons under age 50 without dependent minor children. In its ruling the court developed a "middle-tier" test which should be applied to all public assistance legislation. This test requires that the state demonstrate two factors:

- 1) that its classification of welfare recipients . . . is reasonable; and
- 2) that its interest in classifying welfare recipients . . . is more important than the people's interest in obtaining welfare benefits.

The court went on to state that there should be a balancing of the rights infringed and the governmental interest to be served by such infringement. Saving money must be balanced against the interest of misfortunate people in receiving financial assistance from the state. For example, if the state were to terminate all "able-bodied" persons from the public assistance program it might meet the first portion of the court's test regarding "reasonableness". It is questionable, however, whether such legislation

would meet the second portion of the test which requires a balancing of the misfortunate welfare recipient's interest in receiving benefits with the state's interest in saving money and encouraging employment. A district court judge, however, recently determined that the termination of benefits to "able-bodied" persons did not meet the "reasonableness" test.

The Montana Supreme Court is the first court in the nation to establish a middle-tier (heightened scrutiny) test for welfare legislation. It is believed that the court will apply this test not only to the state general relief program but also to federal welfare programs (e.g. medicaid, AFDC, food stamps, etc.) administered by our state. Montana is not required by federal law to adopt these programs but if it does, the federal government will only reimburse the state if eligibility is determined in accordance with federal rules and regulations. In many instances it is unlikely that the federal eligibility rules would pass the higher middle-tier (heightened scrutiny) test adopted by the Montana Supreme Court. The "supremacy clause" would not preclude the application of the middle-tier test in Montana because the federal programs are optional rather than mandated by federal law. If Montana court determine that federal eligibility rules do not meet the higher standard of review, then 100% state funds must be used to pay for equivalent welfare assistance.

House Bill 637 will not by itself change the welfare system in Montana. But rather, it will place control of welfare costs in the hands of the body that must pay them.

Opinion and comment

Welfare control belongs in Legislature

A proposal to amend the state constitution to let the Legislature set limits on welfare just sailed through the House, 66-32.

Before it becomes a referendum on the 1988 ballot, House Bill 637 must pass a final House vote, then pass the Senate by a margin that would give it at least 100 votes from both houses.

It's clear from the early House vote, though, that there is strong legislative support for something that will enable the lawmakers to get a handle on welfare costs.

Two legislative efforts to restrict welfare payments have been thrown out by Montana courts in the last couple of years, on grounds that they were based on arbitrary and unreasonable classification of welfare recipients.

Legislators, frustrated by what they see as loss of their power to set welfare limits, are now trying to change the constitution.

HB 637 would change from mandatory to optional the constitutional provision that the Legislature provide social and rehabilitation services for the needy.

Supporters of the amendment say that welfare-related programs will soon consume a third of the state budget.

It's important that control of

welfare costs be in the hands of the body that must pay them.

Generally, charges the amendment supporters are anti-poor probably are untrue. The House, by a wide margin, seems to be trying, almost desperately, to regain control of a major government program.

It's important to keep in mind that that amendment would do nothing by itself to change Montana's welfare system. The amendment would leave that up to the Legislature.

At the same time, it should be understood that if the amendment is adopted, it certainly would result in welfare changes. Almost surely, these would involve restrictions on welfare benefits and/or eligibility.

The details of the changes would be hammered out in the Legislature, which is the way it has always been — except that, with the amendment, the Legislature's changes would be far more likely to withstand court challenge.

The amendment would restore what many Montanans believe is a legitimate legislative power.

How that power would be used would be up to future legislators, and the people who vote for them.

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We were looking for a blank space on the wall. This is how I found it. I found it in an art gallery in the afternoon.

Art galleries are because — and I admit it — I have a taste for art.

Some people think Beethoven's music is a million miles away from art.

That's the way I react. I thought that if she'd spend the money on drinks, V. Chapel, I looked like "Boy, laying on a stiff neck and a

OPPOSITION
to H.B. 637

by the Montana Association of Churches,
and personally by George Harper, Helena, delegate to the 1972 Constitutional Convention

We oppose making the provision of assistance and services to those in need an optional rather than a mandated duty of our state legislature.

I state our objection to H.B. 637 this way because that is what the bill says, and all it says.

Instead of having a constitution which says that the legislature "shall provide such economic and social and rehabilitative services as may be necessary for us...", the constitution as proposed would say that the legislature "may provide" such help.

And when you say "may," the words "may not" are understood by everyone who can read the English language.

What this amendment to the constitution would really say is this:

"The legislature may or may not provide aid..."

The framers of the constitution never questioned the idea of the state's responsibility for helping its citizens who cannot help themselves. The thought that it might be merely optional never occurred to us. The constitution of 1889 which we were revising had mandated such aid from the first day Montana became a state. It put the burden of determining and providing such aid on the "several counties." So we did not face the question of whether aid should be provided, but "how and by whom?"

The footnote to section 3 of Article XII of the present constitution says,

"Revises the 1889 constitution (Art. X, Sec. 5) which states that "several counties" must provide welfare. Revision leaves it up to the legislature to determine whether the state, counties, or a combination of the two must provide welfare."

We said in 1972 "let's leave it to the legislature to determine such economic assistance and social and rehabilitative services as may be necessary."

Now this House Bill 637 comes with "WHEREASES" and a "THEREFORE" paragraph that makes it seem that some historical mistake or injustice is now to be rectified. But take a close look at what all the good sounding words are saying:

"WHEREAS, the legislature historically has prescribed the public policy governing the provisions of economic assistance and social and rehabilitative services to those in

need....(you can't argue with that; this has been the case since the beginning)

"WHEREAS, the legislature is the appropriate body of the state government to determine the needs of its residents... (which is exactly what our constitution says)

"WHEREAS, the Montana Supreme Court, in a recent decision, determined that the Montana Constitution requires that statutes relating to such assistance and services are reviewable under a heightened scrutiny test...(which is certainly what the constitution intended), and

...then this strange paragraph comes...

"WHEREAS, the legislature finds that it is in the public interest to restore to the legislature the power to prescribe the provision of economic assistance and social and rehabilitative services to those in need, subject to review under the rational basis test

here the careful reader says "What? The WHEREASES we just read says that the legislature has always had that power. So what is there to be restored?"

But the THEREFORE paragraph says that the legislature wants to "refer the constitutional amendment to the people of the state in order to restore the historical power to set eligibility level criteria for programs and services, as well as for the duration and level of benefits and services relating to economic assistance and social and rehabilitative services."

That is just a bunch of words that imply no change at all...except one. Proof of that is found in the fact that the portion of Article XII which is now to be amended is then included in the bill. Look at it. Not one word is changed until you get to paragraph 3, and there the word "shall" is changed to "may." On the end of the paragraph the words "determined by the legislature to be in need" are added in the effort to give the word "may" its full implication of having "may NOT" understood.

A new paragraph 4 is now added to say essentially what the legislature does at present, except that it makes sure the optional feature is highlighted.

Peel all the language down to its essence, and what does the bill actually propose?

It proposes that the legislature no longer be mandated by the state constitution to see that services are provided. From henceforth, the legislature may or may not

The proposed wording on the ballot should honestly read:

FOR allowing the legislature the option of not providing for economic assistance and social services to those in need.

AGAINST allowing the legislature the option of not providing for economic assistance and social services to those in need.

That is what you are voting on. It is our hope that you will not abandon the real historical position of the state of Montana as expressed in both its constitutions since its founding in 1889.

One day you and I, by reason of misfortune or accident or sickness, may need to rely on our fellow citizens for the basic necessities of life itself. For those who now need our aid, there should be absolutely no question as to whether they can expect it in a civilized and humane society.

George Harper

George Harper



SENATE HEALTH & WELFARE

EXHIBIT NO. 3

DATE 3-13-87

BILL NO. 637

March 6, 1987

Dear Honorable Members of the Montana Senate,

We the undersigned concerned citizens of Butte Silver Bow, wholeheartedly and sincerely recommend that you, the senators, vote against HB 637 as introduced by Representative Cal Winslow and leave Article 12, Section 3 intact, thus preserving our Constitutional guarantee of assistance to those who by reason of age, infirmity or misfortune need the aid of society.

We are all recipients or providers of human services and realize the necessity for providing basic human needs. We maintain that such basic human needs should never be compromised in a political process, but should be protected above all else to preserve human dignity. Indeed those of us who are in need are often least able to actively engage in the political process, thus a strong Constitutional provision can best secure such economic assistance and social and rehabilitation services as needed. Therefore; repealing our Constitutional Rights to assistance would return us to an age when people lived in fear of hunger, starvation, homelessness, and disease. No family which receives assistance would ever know from legislative session-to-legislative session whether or not their specific needs were in favor, or were to be sacrificed in a political reshuffling of priorities. Whether to feed the hungry and care for the needy should never be a political decision. Montanans have always realized this. This is why we have Constitutionally mandated help for each other.

Temporary budget constraints should not suggest to us that the basic human needs of citizens can be ignored in favor of other vast budget items that are secondary to programs that feed, clothe and shelter people, and maintain and restore mental and physical health. The difficult economic times should constrain those of us fortunate enough to have our health and employment, rather than those of us who are victims of unemployment and poor health. To do otherwise, is cruel and shortsighted.

Article 12, Section 3 is nearly unique among state Constitutions and puts Montana thirty years ahead of our times. Such guaranteed assistance is always limited by the true nature of the need. We categorically deny that Montana can no longer afford to fulfill the vision of our Constitution. Indeed when faced with human suffering, social justice requires us to always alleviate the problem.

So today we urge you to maintain our Constitutional Rights to assistance, when in need, and suggest that this is perhaps the most significant issue this legislature will address. We are available to you for further information at anytime and trust you will carefully consider our thoughts and recommendations.

March 13, 1987
Jeanne-Marie Larue
COM. 4
DATE 3-13-87
BILL 637

League of Women Voters opposes HB637.

The League supports assistance to meet the basic needs of persons who are unable to work, whose earnings are not sufficient to meet basic needs, or for whom jobs are not available. As taxpayers, we understand the frustration of high welfare costs... the frustration of trying to make state budget ends meet when our economy is so depressed and so many are out of work. We understand your frustration in trying to establish a program to aid those in need at a reasonable cost to taxpayers. But we urge you not to go to the extreme of amending our Constitution as the only way to address those costs.

Remember that the Supreme Court found, in declaring our current statute unconstitutional, that it did not agree that the right to welfare is fundamental. It found that the intent behind the Constitutional provision giving all persons the inalienable right to life's basic necessities does not create a substantive right for all the necessities of life to be provided by the public treasury. The court decided there is no constitutional right to welfare, and it is not a right upon which constitutionally guaranteed rights depend. Welfare is a benefit.

However, in addressing the state law adopted last year, the Supreme Court found that the state had failed to show that misfortunate people under the age of 50 are more capable of surviving without assistance than people over the age of 50. These divisions are arbitrary, and our law was declared unconstitutional.

Madame Chairwoman and members of the committee, there are at least 23 bills to amend the Constitution this session. When does it end? When do you decide that we don't have to amend our state Constitution to solve our problems? You have the ability now to determine benefit levels and funding for optional services. There are proposals to base general assistance on employability, to set up incentive programs to help displaced homemakers and recipients of AFDC find and keep jobs... There's now a proposal by Rep. Winslow to create a special panel to study welfare issues to come up with proposals to tighten up requirements for assistance and reduce possibilities of abuse.

Obviously, there are alternatives out there to amending the Constitution. We urge you to consider those alternatives, to understand exactly what your abilities are under the existing Constitution before you amend it in such a drastic way as is being proposed here. This bill does much more than allow the legislature to determine eligibility, duration and level of economic assistance. It amends the Constitution to allow the legislature to decide whether to provide such services, even when the legislature has determined there is a need. We urge you to oppose HB637. Thank you.



JAMES W. MURRY
EXECUTIVE SECRETARY

Box 1176, Helena, Montana

ZIP CODE 59624
406/442-1708

SENATE PUBLIC HEALTH & WELFARE
EXHIBIT 7
DATE 3-13-87
BILL NO. 637

TESTIMONY OF THE MONTANA STATE AFL-CIO ON HOUSE BILL 637 BEFORE THE SENATE
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE, MARCH 13, 1987

Madam Chair, my name is Jack Zink and I am here to testify on behalf of the Montana State AFL-CIO in opposition to House Bill 637. I am presenting the testimony today as Jim Murry has a conflict in scheduling.

First, let me say that the framers of our Montana Constitution, in Article X, Section 3, made clear Montana's commitment to providing economic assistance and social rehabilitation services for those inhabitants who, by result of age, infirmity or misfortune, may have need for the aid of society.

House Bill 637 proposes to soften that constitutional guarantee. And it does so at a time when a stagnant job market and crumbling economy are worse than they have been since the Great Depression.

Tragically, just two months ago, Montana experienced the 10th highest rate of unemployment in the nation. In human terms, this means that 33,200 Montana men and women are out of work. This figure only indicates the "official" rate of unemployment and does not include those forced to take part-time work because full-time employment is not available.

According to the Montana Department of Labor and Industry, 18,000 new jobs will be created in Montana between 1984 and 1990. This means an average of only 3,000 new jobs per year will be available. The bottom line is that with our current unemployment, we will have 11 people competing for every new job.

Whatever the combination of causes, the stark reality for thousands of Montanans is persistent unemployment and low income and poverty. This unemployment is not a small, temporary problem, which affects only a limited number of Montanans. It is a big, persistent state and national problem with very serious costs and consequences for Montana and the nation.

Unfortunately, the traditional "safety net" protections for jobless workers have been seriously cut and weakened during the last seven years. But numbers will not describe all of the human misery and social costs of unemployment.

When people are unemployed how are they going to put bread on the table? How will they make the mortgage or rent payment? How are they going to pay medical bills for themselves and their spouses and children? These questions bring daily concerns and daily tragedy for many Montanans and their families.

House Bill 637

-2-

And now, through House Bill 637, you are seeking legislative authority to restrict or reduce general assistance that has historically been the essential life line for those who have fallen through the "safety net."

Madam Chair, passage of this bill would be turning our backs on those who have nowhere else to turn. If we take this action, things will go from bad to worse. We will, in fact, have said to those on general assistance, "We can't be there to help you through the bad times." And in saying that, we will have created a permanent underclass of unemployed in a polarized, two-tier society in Montana.

I submit, Madam Chair, that this would cause every Montanan's moral and economic standard to sink lower and lower.

I ask you again, please give this bill a "do not pass" recommendation. Thank you for your consideration.

TESTIMONY BEFORE THE SENATE PUBLIC HEALTH COMMITTEE

ON H.B.637: to submit to the electors of Montana an Amendment to Article XII, Sec. 3, to Allow the Legislature Greater Discretion in Providing Economic Assistance and Social and Rehabilitation Services...

I am Judith H. Carlson speaking for the Montana Chapter, National Association of Social Workers, and the Montana Senior Citizens Association, in opposition to HB 637. We've been here before - Representative Winslow in his frustration at seeing the budgets of the Department of Social and Rehabilitation soar. And those of us in opposition saying to look at the people and their needs and their rights.

What motivated the introduction of this amendment - and its passage in the House? It is apparent that there is widespread perception that the Legislature can do nothing to control the costs of "welfare" - primarily general assistance, medicaid, and aid to families with dependent children. And the courts have, on occasion, overturned a piece of legislation drafted to limit and restrict those programs. That fostered further frustration that "nothing we try" will work without this constitutional amendment.

I have the enviable position of representing folks on both sides of the public assistance fence - social workers who provide services and receive payments for professional services; and senior citizens who receive medicaid benefits. From both sides of this fence, I hear: who needs it? We do not need this change to our constitution.

It is clear to me that the department and the legislature do now have the authority and ability to control rising costs. Two examples: the original motivator for this amendment, General Assistance, has been brought under control this past year. That caseload has stabilized. When the court said SRS could not put into effect a law to restrict benefits to the able-bodied aged under 35, the department and the legislature figured out

-2-

another way to attack the problem - a much more humane way of offering real assistance to meet the real problems of people. It seems to be working.

Another example: several years ago it appeared that nursing home costs were "out of control." As I look at the figures for SRS now, those costs appear to have stabilized due to an effective rate setting system and the use of the "medicaid-waiver" program whereby the elderly and disabled are helped to obtain services in their own homes rather than having to go to a nursing home when it is not absolutely medically necessary.

Thus, SRS and the legislature can control costs without this amendment.

Some costs are going to rise due to economic factors - some perhaps within our control and some not. The Montana Constitution should not be tampered with because the Arab nations have lowered the price of their oil; or because our policies for agriculture have gone awry for a variety of reasons, some including foreign policy; nor because we have a lower inflation rate than expected and thus the interest money coming to state coffers has declined. Do we want outside factors like that to control what we think is best for our people? We need to look at our budget realistically - as I think this legislature is doing. We come up with a realistic budget - both revenue and expenditures. We don't change the Constitution.

ADD
p. 3

The public has always complained about "welfare costs" even in the Depression and on up to the present day. I do not hear more complaints from the general public now. People always want welfare to go to those who need it. Don't we all? Sometimes one person's "need" appears to be another person's "want."

I wish we could have a lengthy conversation and trade ideas on this subject in more depth. But for now, I urge you to vote NO on HB 637.

Walter D. Carlson

The big spender in SRS is the medicaid program. This is a marvelous program that has been a life-saver (literally) for many Montanans. Did you know that the older citizens of our country are paying more out-of-pocket for medical care now than they did before passage of the medicare legislation in the early 70's? Health care costs have escalated far above the regular inflation rates. And even though SRS has not been paying the going rate for most providers of health care, they have had to respond to some of that dramatic increase in health care costs. This is reflected in the medicaid budget.

In order to save General Fund monies, we in Montana have done a good job of using the medicaid program to pay for programs that otherwise would have been General Fund - for example, our state institutions could have been full of people who are now in the community and being cared for by use of medicaid dollars.

I'm talking about this budget to let you know that some of the increases in the SRS budget have come about because of wise overall use of the state General Fund. And the big increases in programs have been those that benefit the poor and the elderly but they also put lots of money into the pockets of all who work in hospitals, doctors offices, mental health centers, and the rest of our health care system.

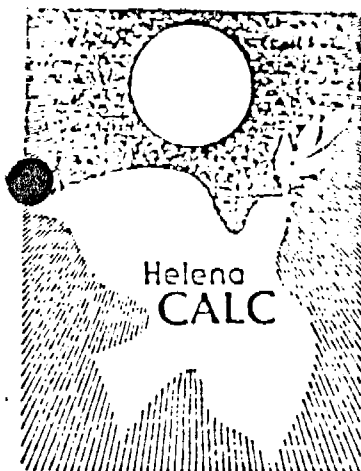
WITNESS STATEMENT

NAME PAMELA MARSHALL BILL NO. 637
ADDRESS 1240 Butte Avenue Helena, MT DATE March 13, 19
WHOM DO YOU REPRESENT? Montana People's Action
SUPPORT _____ OPPOSE we oppose AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Good afternoon. I'm Pam Marshall and I'm speaking as a representative of Montana People's Action. I thank you for the opportunity to express my disapproval of House Bill 637 which has been sponsored by Representative Winslow. This bill opens the doors for many potential cuts and on those grounds I oppose it. As a resident of Montana for 25 years now making my home in Helena, I have seen the increased concern arising around the topic of public assistance programs. Though I can see the urgency of the needed budget remedies, I can also see the catastrophies and misfortunes of the future. By reducing the funds available for public assistance you are seeking short term goals without much regard for long term results. I am a single mother with two children subsisting on AFDC funds, living in subsidised housing while attending Carroll College. This bill threatens the opportunities and hopes I see for my future as well as the future of my children. Many of the funds potentially cut by this bill would affect not only the funds we use on a day-to-day basis to exist but also Voc-Rehab funds I utilize to cover college expenses. In an industrial and technological society it is necessary to have a college education. Aiding me to receive college education now will remove me from public assistance programs permanently. Allowing me to create a healthy and productive environment for my children encourages them to strive for freedom apart from any public assistance. In the end I will return far more than I have ever received, hopefully helping those who like myself wish not only to separate themselves from the stigma attached to public assistance programs but also from the stigma associated with a lack of education. Furthermore I believe that this legislative body has far too many responsibilities now without compiling their load. Also, though I contend that this body holds an enormous amount of expertise in several areas, the need for specific training in the area of public assistance is immeasurable. And finally, this body is even further removed from the immediate needs of the people than the institutions who currently regulate these programs. To know the needs of the people you need to see the needs of the people first hand. I strongly urge you to vote against HB 637. Thank you.



CLERGY AND LAITY CONCERNED

P. O. Box 933 Helena, Montana 59624
443-0843 442-5086

March 13, 1987

Helena CALC Testimony Concerning HB637: Do Not Pass This Bill

RHANDI RACHLIS

My name is ~~Marge Cooper~~ and I am representing Helena Clergy and Laity Concerned, bringing to you the recommendation of our Economic Justice Committee:

As an interfaith community of persons from a variety of religious traditions who care about the protection of human rights and the promotion of economic justice, Helena Clergy and Laity Concerned strongly opposes House Bill 637. We urge you to defeat this bill in this committee and to strongly recommend to the Senate that this bill NOT be passed.

Helena Clergy and Laity Concerned opposes this bill because it is a profound step backwards in our state's sacred, public commitment, now contained in our Constitution, to a recognition that low-income persons and others hit hard by adversity have a guaranteed human right to assistance from our government.

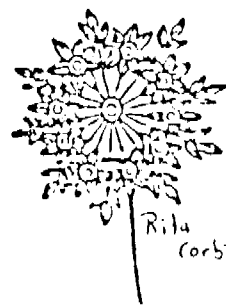
The state's need to provide for social and economic justice for the poor and the unfortunate is not an option--it is a moral imperative-- and our Constitution should not be changed in this regard. We should be living up to this commitment, not breaking a commitment rightly enshrined in our Constitution.

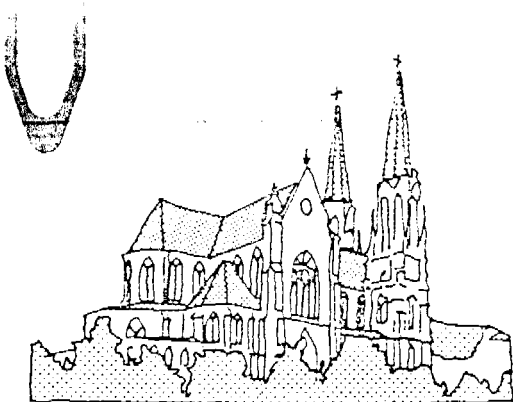
Rather than cutting back on our commitments to the poor by passing HB 637, we need to heed the words of the prophet Isaiah, who spoke out in his time against efforts to forget the rights of the poor, as he said:

Woe to the legislators of infamous laws, tyrannical decrees, who refuse justice to the unfortunate and cheat the poor among my people of their rights, who make widows their prey and rob the orphan.

HELENA CALC:

People of Faith
Working
Together
For
Peace
And



ST. HELENA'S
CATHEDRAL530 NORTH EWING
HELENA, MONTANA
442-5825 59601

March 13, 1987

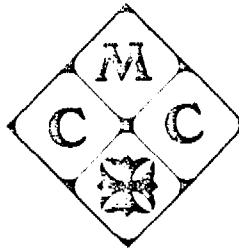
THE SENATE COMMITTEE FOR PUBLIC HEALTH, WELFARE AND SAFETY:

I am Rev. Mr. Tony Duvernay, and I represent the Cathedral of St. Helena. I am a permanent deacon on the Cathedral Staff and I work closely with people in need in our local parish and in the Helena Community as well.

We at the Cathedral, urge you to vote "no" on H.B. 637. If this was a bill that would assure greater assistance for the "needy" of our State, we would overwhelmingly support the legislation. However, this is not the case and we fear for all those who now and in the future, may have need for aid from our Society.

We do believe that we are justified in our fear. The fear that if this legislation is passed, the result will be that those people in need, the poor, the unemployed, the aged, the infirmed, would have less assistance than is presently provided. Anyone who has any experience in assisting the "needy" are painfully aware that the present level of public assistance is minimum indeed.

We therefore, urge you to vote "no" on H.B. 637.



Montana Catholic Conference

SENATE HEALTH & WELFARE

EXHIBIT NO. 22

DATE 3-13-87
BILL NO. 635

March 13, 1987

CHAIRMAN ECK AND MEMBERS OF THE SENATE PUBLIC HEALTH COMMITTEE:

I am John Ortwein representing the Montana Catholic Conference.

The Catholic Church's concern for human life and human dignity are the reasons I appear before you today. Striving to fulfill these concerns is the duty of the whole of society of which government is a part. Indeed, we must not lose sight of the fact that elected government's business is the instrument of our common concerns.

In the recently released U.S. Bishops' Pastoral Letter on the Economy, the following is stated: Society acting as a whole, acting through public and private institutions, has the moral responsibility to enhance human dignity and protect human rights.

Government has an essential responsibility in this area. It has a positive moral responsibility in safeguarding human rights and ensuring that the minimum conditions of human dignity are met for all.

It would seem to us that the drafters of the Montana Constitution had this vision when they wrote, "The legislature shall provide economic assistance and social and rehabilitative services as may be necessary for those inhabitants who, by reason of age, infirmities, or misfortune may have the need for the aid of society." We would hate to see this very clear message changed.

Please vote "no" on House Bill 637.

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
MONTANA STATE SENATE

March 20, 1987

The meeting of the Senate Public Health, Welfare and Safety Committee was called to order by Chairman Dorothy Eck on March 20, 1987, in Room 410 of the State Capitol.

ROLL CALL: All members of the committee were present.

ACTION ON HOUSE BILL NO. 637: Sen. Himsl moved that H.B. 637 BE CONCURRED IN. Sen. Vaughn: My constituents are very concerned about getting into the constitution again.

Karen Renne: Welfare benefits are a benefit and not a right; and the state has to show a compelling interest to deny the benefit. SRS is trying to submit different approaches that the Court will accept.

Sen. Williams: Costs have escalated drastically since 1972 in welfare. No one has decided on how to control costs.

Karen Renne: There have been no attempts to limit welfare until 1985.

Sen. Meyer called for the question; the vote was 6-4 that H.B. 637 BE CONCURRED IN. Senators voting yes were Williams, Meyer, Rassmussen, McLane, Himsl, and Hager. Senators voting no were Eck, Norman, Vaughn, and Jacobson. Sen. Williams will carry the bill.

RECONSIDERATION OF HOUSE BILL NO. 364: Sen. Jacobson moved to reconsider committee action on H.B. 364, because she thought that one of the sets of amendments was workable, but it could create real difficulties for the merged board. The amendment pertained to the voting of board members on matters relating to dentistry and matters relating to dentistry. Most of the time it will be difficult to separate issues that only dentists or denturists deal with, so that amendment could create unnecessary problems for the board.

Sen. Williams: Would Tom Ryan like to speak on this issue?

Tom Ryan, MSS: We liked the amendment as it originally passed the committee, having the amended board.

Sen. Jacobson: I would like to move that the amendment on conduct of business be stricken. A roll call vote was taken with five senators voting for and five against. Those voting for the motion were Eck, Vaughn, Rassmussen, Jacobson, and McLane; those voting against were Norman, Williams, Meyer, Himsl, and Hager.

Sen. Himsl: Paragraph Two on the last page of the bill contains an unusual statement.

Roger Tippy: Subsection Two is unconditional guarantee drafted in the initiative.

Sen. Jacobson: The Auditor's office missed some of the statutes when they drafted the bill, so these amendments make the bill conform with the state law.

Sen. Rassmussen: How does this new amendment differ from the old one?

Sen. Jacobson: What the new amendment does is to say that dentists can't vote on matters of licensing or revoking licenses of denturists and vice versa. But on all other matters they will vote as a full board.

STANDING COMMITTEE REPORT

..... MARCH 20 19.87.....

MR. PRESIDENT

We, your committee on..... SENATE PUBLIC HEALTH, WELFARE AND SAFETY.....

having had under consideration..... HOUSE BILL..... No. 637.....

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ALLOW LEGISLATURE TO DETERMINE WELFARE AND HUMAN SERVICE BENEFITS

WINSTON (WILLIAMS)

Respectfully report as follows: That..... HOUSE BILL..... No. 637.....

BE CONCURRED IN

WELFARE

WELFARE

..... DOROTHY TUCK.....
Chairman.